

HIPAA Privacy Rule Checklists

Section 164.526 – Amendment of Protected Health Information

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Section 164.526 – Amendment of Protected Health Information

I. Right to Amend

An individual has the right to have a covered entity amend protected health information or a record about the individual in a designated record set for as long as the protected health information is maintained in the designated record set.

- a. **Denial of Amendment.** A covered entity may deny an individual's request for amendment if it determines that the protected health information or record that is the subject of the request:
 - i. ____ Was not created by the covered entity, unless the individual provides a reasonable basis to believe that the originator of protected health information is no longer available to act on the requested amendment;
 - ii. ____ Is not part of the designated record set;
 - iii. ____ Would not be available for inspection under § 164.524; or
 - iv. ____ Is accurate and complete.
- b. **Request for Amendment.** The covered entity must permit an individual to request that the covered entity amend the protected health information maintained in the designated record set.
 - i. ____ The covered entity may require individuals to make requests for amendment in writing and to provide a reason to support a requested amendment, *provided that* it informs individuals in advance of such requirements.
- c. **Timely Action.** The covered entity must act on the individual's request for an amendment no later than 60 days after receipt of such request, as follows:
 - i. ____ If the covered entity wholly or partially grants the requested amendment, it must comply with the following requirements:
 - ____ The covered entity must make the appropriate amendment to the protected health information or record that is the subject of the request for amendment by, at a minimum, identifying the records in the designated record set that are affected by the amendment and appending, or otherwise providing, a link to the location of the amendment;
 - ____ The covered entity must timely inform the individual that the amendment is accepted and obtain the individual's identification of and agreement to have the covered entity notify the relevant persons with which the amendment needs to be shared, as required below;
 - ____ The covered entity must make reasonable efforts to inform and provide the amendment within a reasonable time to:
 - ____ Persons identified by the individual as having received protected health information about the individual and needing the amendment; *and*
 - ____ Persons, including business associates, that the covered entity knows have the protected health information that is the subject of the amendment and that may have relief, or could foreseeably rely, on such information to the detriment of the individual.

- ii. _____ If the covered entity wholly or partially denies the requested amendment, it must comply with the following requirements:

_____ **Denial.** The covered entity must provide the individual with a timely, written denial, as follows:

_____ The denial uses plain language;

_____ The denial contains the basis for the denial;

_____ The denial contains the individual's right to submit a written statement disagreeing with the denial and how the individual may file such a statement;

_____ The denial contains a statement that, if the individual does not submit a statement of disagreement, the individual may request that the covered entity provide the individual's request for amendment and the denial with any future disclosures of the protected health information that is the subject of the amendment; *and*

_____ The denial contains a description of how the individual may complain to the covered entity pursuant to the procedures established in § 164.530(d) or to the Secretary pursuant to the procedures established in § 160.306, and this description must include the name, or title, and telephone number of the contact person or office so designated.

_____ **Statement of Disagreement.** The covered entity must permit the individual to submit to the covered entity a written statement disagreeing with the denial of all or part of a requested amendment and the basis of such disagreement, and the covered entity may reasonably limit the length of a statement of disagreement.

_____ **Rebuttal Statement.** The covered entity may prepare a written rebuttal to the individual's statement of disagreement.

_____ When such a rebuttal is prepared, the covered entity must provide a copy to the individual who submitted the statement of disagreement.

_____ **Recordkeeping.** The covered entity must, as appropriate, identify the record or protected health information in the designated record set that is the subject of the disputed amendment and append, or otherwise link, the individual's request for an amendment, the covered entity's denial of the request, the individual's statement of disagreement, if any, and the covered entity's rebuttal, if any, to the designated record set.

_____ **Future Disclosures.**

_____ If a statement of disagreement has been submitted by the individual, the covered entity must include the appended material, or, at the election of the covered entity, an accurate summary of any such information, with any subsequent disclosure of the protected health information to which the disagreement relates;

_____ If the individual has not submitted a written statement of disagreement, the covered entity must include the individual's request for amendment and its denial, or an accurate summary of such information, with any subsequent disclosure of the protected health information only if the individual has requested such action;

- _____ When a subsequent disclosure is made using a standard transaction (under § 162) that does not permit the additional material to be included with the disclosure, the covered entity may separately transmit the required material, as applicable, to the recipient of the standard transaction.
- iii. _____ If the covered entity is unable to act on the amendment within the required time, the covered entity may extend the time for such action by no more than 30 days, provided that:
 - _____ The covered entity, within the initial 60-day period, provides the individual with a written statement of the reasons for the delay and the date by which the covered entity will complete its action on the request; *and*
 - _____ The covered entity may have only one such extension of time for action on a request for an amendment.
- d. **Notices of Amendment.** A covered entity that is informed by another covered entity of an amendment to an individual's protected health information, in accordance with this Section, must amend the protected health information in designated record sets as provided for above in Section I.c.i.
- e. **Documentation.** A covered entity must document the titles of the persons or offices responsible for receiving and processing requests for amendments by individuals and retain the documentation.